Barbie® is a symbol of America—down to the ®, representing Mattel’s claim of exclusivity. The Barbie brand is capacious, covering products of every kind, in miniature and in large; you and your Barbie can even wear matching jewelry. The doll represents an aspiration to a kind of ideal and also a never-ending mutability. One basic body has been changed over time and reworked into multiple ethnicities, dressed in a seemingly infinite selection of outfits themselves representing a wide range of hobbies and careers (getting married might be one or the other), though always with feet arched to wear high heels, even for Army Medic Barbie. Barbie is the perfect woman, and she is also grotesque, plasticized hyperreality, presenting a femininity exaggerated to the point of caricature.

Barbie’s marketplace success, and her ability to represent multiple overlapping and occasionally contradictory meanings, also makes her a useful embodiment of some key exceptions to copyright and trademark law. Though Mattel’s lawsuits were not responsible for the initial recognition of those exceptions, they are illuminating for several reasons. Mattel attempted to use both copyright and trademark to control the meaning of Barbie, reflecting a trend towards such overlapping claims: creative material becomes a brand, and brands have so many creative elements that copyright’s low originality standard recognizes copyrightable subject matter therein. The Barbie cases therefore also throw copyright and trademark defenses into contrast.